IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2372 OF 2003
IN
SUIT NO.4180 OF 1998

Mayur Co-Op.Hsg. Soc.Ltd. & Ors. ....Plaintiffs
V/s.
Joy Constructions & Ors. ....Defendants

Mr.Manish Mistry i/b Mr.M.P. Vashi for the Plaintiffs.
Ms.Sharmila Deshmukh i/b Mr.Y.S. Bathe for Defendant No.3.
Mr.H. Pimple i/b Mr.A.H. Cheda for B.M.C. - Defendant No.4.

CORAM : S.J. VAZIFDAR, J.
DATED : 19TH NOVEMBER, 2005.

P.C. :

1. The Notice of Motion has been taken out by Defendant No.3 to direct the Plaintiffs to carry out repairs as per the order dated 30th August, 2000 passed in Notice of Motion 535 of 1999.

2. Notice of Motion No.535 of 1999 was taken out by the Plaintiffs. The said order granted interim reliefs in terms of prayer (c) of that Notice of Motion by which Defendant No.3 was prevented from obstructing the Society and its members from repairing or painting the building. This order did not direct the Plaintiffs to carry out the repairs in

any particular manner.

3. Even if it can be said that the observation in paragraph 2 of the order contain an implied direction, the same can only be read to me what the order in fact states namely that the repairs should be for the entire building including the drainage system which affects the occupation of Defendant No.3.

4. The surveyor of the contractor has issued a certificate certifying that the work has been duly completed. In fact Defendant No.3 has not even contributed his share towards the repair.

5. In the circumstances, the Notice of Motion is dismissed but with no order as to costs.